

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

**FIMBANK PLC**

**v.**

**DISCOVER INVESTMENT CORP;  
SAM SHIPPING MANAGEMENT  
S.A.; SHIPPING ASSET  
MANAGEMENT (SAM) S.A.; and  
SPV Sam Eagle Inc.**

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**CIVIL ACTION NO. 2:19-CV-264**

**ADMIRALTY RULE 9(h)**

**MOTION TO DISMISS COUNTERCLAIM AND TO  
WITHDRAW AS COUNSEL OF RECORD**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW Michael J. Wray, Thomas R. Nork, Christopher R. Hart, and the law firm of Holman Fenwick Willan USA LLP ("Movants"), attorneys of record for SPV Sam Eagle Inc., to respectfully move this Honorable Court to issue an Order permitting them to withdraw as counsel of record for SPV Sam Eagle Inc., defendant, and to dismiss the counterclaim of SPV Sam Eagle Inc. pursuant to Rule 41(a)(2). In support, Movants respectfully show the Court as follows.

**I.**

Good cause for withdrawal of counsel exists because SPV Sam Eagle Inc. has advised Movants it no longer wishes to participate in these proceedings or to pursue any action in this case and the representation has concluded. Movants have given reasonable notice to SPV Sam Eagle Inc. of their intention to withdraw from representation in this case. Pursuant to Texas Disciplinary Rule of Professional Conduct 1.15, good cause exists for Movants to withdraw from representation in this case.

**II.**

The M/V SAM EAGLE has been sold pursuant to the order of this Court, and the proceeds of the sale have been deposited into the Court's registry. SPV Sam Eagle Inc. no longer has any property ownership interest in the M/V SAM EAGLE, and it makes no claim to ownership of the proceeds of

sale of the vessel. Accordingly, there is no longer any property of SPV Sam Eagle Inc. located within the Court's jurisdiction and subject to process of maritime attachment under Supplemental Admiralty Rule B. SPV Sam Eagle Inc.'s appearance in this case was restricted, pursuant to Supplemental Admiralty Rule E(8), to defense of Fimbank's claim asserted by process of maritime attachment. Since there is no longer any property of SPV Sam Eagle Inc. subject to attachment, there is no longer any jurisdiction over SPV Sam Eagle Inc. for the claims asserted against it in the Verified Complaint of plaintiff, Fimbank PLC.

### III.

SPV Sam Eagle Inc. no longer wishes to pursue the counterclaim asserted in its Original Answer and Counterclaim, Doc. No. 20. Therefore SPV Sam Eagle Inc. and Movants respectfully request that the counterclaim be dismissed without prejudice, with each party to bear its own costs related to the counterclaim, pursuant to Federal Rule of Civil Procedure Rule 41(a)(2).

### IV.

Therefore, Movants Michael J. Wray, Thomas R. Nork, Christopher R. Hart, and the law firm of Holman Fenwick Willan USA LLP respectfully request that this Honorable Court grant this motion and enter an order permitting them to withdraw from this case as counsel of record for SPV Sam Eagle Inc., dismiss the counterclaim without prejudice, and grant such other relief as justice may require.

Respectfully submitted,

**HOLMAN FENWICK WILLAN USA LLP**

/s/ *Michael J. Wray*

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**ATTORNEYS FOR DEFENDANT  
SPV SAM EAGLE INC.**

**CERTIFICATE OF CONFERENCE**

I certify that I have conferred with counsel for all other parties, and their positions on the relief sought by this Motion are as follows:

1. Counsel for Plaintiff, Fimbank PLC: Has not responded to conference request yet, so assumed to be OPPOSED.
2. Counsel for Plaintiff, Credit Suisse: UNOPPOSED.
3. Counsel for Melinda Maritime Ltd.: UNOPPOSED.

/s/ Christopher R. Hart

Christopher R. Hart

**CERTIFICATE OF SERVICE**

I certify that the foregoing pleading was electronically filed on July 27, 2020, and a true and correct copy of it will be served on all counsel of record via the Electronic Case Filing System of the United States District Court for the Southern District of Texas.

/s/ Christopher R. Hart

Christopher R. Hart